

# Notice of Allowability

Application No.

09/866,283

Examiner

Teresa E Strzelecka

Applicant(s)

RUNDELL ET AL.

Art Unit

1637

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to amendments filed March 4 and May 25, 2004.
2. ☒ The allowed claim(s) is/are 1,3-10,23,24,26-30 and 33-42.
3. ☒ The drawings filed on 30 May 2003 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All b) ☐ Some\* c) ☐ None of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).
  - \* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
    - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
      - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
    - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

## Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date \_\_\_\_\_
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☒ Interview Summary (PTO-413), Paper No./Mail Date 28062004.
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_

JEFFREY FREDMAN  
PRIMARY EXAMINER  
6/30/07

### EXAMINER'S AMENDMENT

1. This office action is in response to amendments filed March 4, 2004 and May 25, 2004.

Claims 1-32 were previously pending, with claims 12-22 withdrawn from consideration. In an amendment filed March 4, 2004, Applicants amended claims 1, 3-6 and 24-29 and cancelled claims 2, 11 and 25. In an amendment filed May 25, 2004, Applicants amended claims 1, 3-10 and 23, 24, 26-30, cancelled claims 2, 12-22, 31 and 32, and added new claims 33-42. Claims 1, 3-10, 23, 24, 26-30 and 33-42 are pending.

2. Applicants' amendments and claim cancellations overcame the following: objection to claims 26-29; rejection of claims 1 and 8-10 under 35 U.S.C. 102(b) as anticipated by Hayatsu et al.; rejection of claims 1 and 8-10 under 35 U.S.C. 102(b) as anticipated by Kariko et al.; rejection of claims 1, 3, 5 and 7-10 under 35 U.S.C. 102(b) as anticipated by Boom et al.; rejection of claim 4 under 35 U.S.C. 103(a) over Boom et al. and Holmberg; rejection of claim 6 under 35 U.S.C. 103(a) over Boom et al. and Matsui et al.; rejection of claims 23, 24, 26, 28 and 30-32 under 35 U.S.C. 103(a) over Boom et al. and Stratagene Catalog; rejection of claim 27 under 35 U.S.C. 103(a) over Boom et al., Stratagene Catalog and Holmberg; rejection of claim 29 under 35 U.S.C. 103(a) over Boom et al., Stratagene Catalog and Matsui et al.; rejection of claims 23, 24, 31 and 32 under 35 U.S.C. 103(a) over Hayatsu et al. and Stratagene Catalog; rejection of claims 23, 24, 31 and 32 under 35 U.S.C. 103(a) over Kariko et al. and Stratagene Catalog.

3. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

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Authorization for this examiner's amendment was given in a telephone interview with Raquel Alvarez on June 28, 2004.

The application has been amended as follows:

In claim 4, line 3, insert ---addition--- after "dropwise".

In claim 28, line 1, delete ---said--- after "wherein".

In claim 28, line 3, insert ---addition--- after "dropwise".

### ***Reasons for Allowance***

4. The following is an examiner's statement of reasons for allowance: Applicants' invention is a composition comprising a nucleic acid of known sequence bound to a microparticulate agent, where the binding agent is produced by dissolving nylon in concentrated acid to produce a solution and adding the solution to water in a dropwise manner to produce the binding agent. The closest prior art reference, Kumar et al. (Immunology Letters, vol. 7, pp. 293-296, 1984), teach RNA molecules bound to nylon beads (page 294, paragraphs 4 and 6) which were activated by treatment of the beads in 3.5 N HCl for 36 hours. Kumar et al. do not teach production of the beads by dissolving nylon in concentrated acid dropwise addition of the nylon solution to water.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

### ***Conclusion***


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Teresa E Strzelecka whose telephone number is (571) 272-0789. The examiner can normally be reached on M-F (8:30-5:30).

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gary Benzion can be reached on (571) 272-0782. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

TS  
June 28, 2004

  
JEFFREY FREDMAN  
PRIMARY EXAMINER  
